

RIGHT OF FIRST REFUSAL AGREEMENT

This Right of First Refusal ("Agreement"), dated this _____, is made and entered into by and between _____ ("Grantor") and _____ ("Grantee").

WHEREAS, Grantor is the owner of real property commonly known as and located at _____ (the "Property"), more specifically described in Exhibit A, which is hereto attached and incorporated by reference; and

WHEREAS, Grantor desires to grant to Grantee, and Grantee desires to obtain from Grantor, a right of first refusal to purchase the Property, together with all rights of Grantor to adjoining streets, rights of way, easements, all other appurtenant rights, and all personal property on the Property belonging to Grantor on the terms and conditions set forth in this Agreement.

NOW THEREFORE, for good and valuable consideration the receipt and adequacy of which are acknowledged, the Grantor and Grantee (collectively, the "Parties") agree as follows:

I. RIGHT OF FIRST REFUSAL. Grantor shall not sell or agree to sell the Property without first offering the Property to Grantee. If at any time Grantor should receive a bona fide offer from any third party to purchase in whole or in part the Property, Grantor shall provide Grantee a copy of the proposed sale contract and notify Grantee of Grantor's intention to accept the same.

II. TERM. Grantee's right of first refusal shall begin with the date of this Agreement and continue until _____, unless otherwise terminated sooner in accordance with the terms of this Agreement.

III. FIRST OFFER. Before Grantor sells or agrees to sell the Property, Grantor shall offer to sell the Property to Grantee (the "First Offer"), in writing and on terms and conditions substantially identical to those proposed for the sale of the Property to a third party.

This First Offer shall, at a minimum, include the following information: the purchase price proposed for the sale to the third party; the method of purchase price payment; the amount and terms of any proposed Grantor financing in connection with the proposed purchase; the amount of any earnest money deposit; the time and location for the close of escrow; the name of the proposed purchaser; and the other material terms and conditions of the proposed sale of the Property.

IV. ACCEPTANCE PERIOD. Grantee shall have _____ days from the date of the First Offer to accept by delivering to Grantor the acceptance on or before the last day of this acceptance period. If Grantee fails to accept the First Offer on or before the last day of this acceptance period, the First Offer shall be deemed to be rejected.

If Grantee responds to the First Offer with anything other than an unequivocal, unconditional acceptance or rejection, the right of first refusal shall terminate and the response shall be deemed

a counter offer to purchase the Property on the terms and conditions in the response. Grantor shall be entitled to accept or reject said offer at Grantor's sole discretion. If rejected, Grantor shall have no further obligations under this Agreement.

V. ACCEPTANCE AND CLOSING PERIOD. If Grantee accepts the First Offer, Grantee shall have _____ days following acceptance of the First Offer to consummate the purchase of the Property pursuant to the terms and conditions of the First Offer. If Grantee fails to consummate the purchase of the Property within this closing period, any earnest money paid by Grantee pursuant to the acceptance shall be paid to Grantor as Grantor's liquidated damages, and the agreement to purchase the Property together with this Agreement shall be terminated. After that termination, Grantor shall be free to enter into an agreement concerning the sale of the Property with any third party on whatever terms Grantor may choose without further obligation under this Agreement.

VI. TERMINATION. This Agreement shall terminate on the first of the following events to occur: Grantee, in contravention of this Agreement, assigns or attempts to assign Grantee's rights under this Agreement; Grantee rejects the First Offer and Grantor subsequently consummates a sale of the Property to a third party pursuant to the terms of the First Offer; the expiration of the term set forth under Section II of this Agreement; or upon the purchase of the Property by Grantee.

VII. CONSIDERATION. In consideration of the right of first refusal herein granted by Grantor, Grantee agrees to exchange the following good and valuable consideration: _____

VIII. ASSIGNMENT. Grantee's rights and obligations under this Agreement shall not be assigned without Grantor's prior written consent, and any assignment without consent shall be void.

IX. WARRANTY. Grantor hereby warrants and covenants good and marketable title to the Property and good right, full power, and lawful authority to grant, bargain, sell, and convey this right of first refusal.

X. DEFAULT. In the event that Grantor enters into a sale, transfer, conveyance, assignment, lease with a term, including both primary and option periods, in excess of _____ years or lease with option to purchase in conflict with this Agreement, Grantees may, at Grantee's election, in legal proceedings seek to have a court of competent jurisdiction declare this Agreement breached and decree and order that said transfer, sale, conveyance, assignment, lease with a term in excess of said number of years, or lease with option to purchase is null, void, and of no effect.

Notwithstanding anything to the contrary herein, this Agreement shall in no way restrict Grantor's right, power, or authority to mortgage or encumber, grant easements, or grant a lease or leases, without option to purchase and for a term, including both primary and option periods, not in excess of _____ years. Nor shall this Agreement in any way restrict or prohibit transfers by operation of law or transfers between Grantor and Grantee.

XI. NOTICES. All notices required or permitted to be given under this Agreement shall be in writing and mailed, postage prepaid, by certified or registered mail, return receipt requested, or by personal delivery, to the address indicated below or at other places that Grantor or Grantee may, from time to time, designate by written notice given to the other.

To Grantor: _____

To Grantee: _____

XII. MEMORANDUM. A memorandum of this Agreement may be recorded at Grantee's election to notify any potential buyers of Grantee's priority right, and Grantor, at the request of Grantee, shall deliver to Grantee a signed and acknowledged memorandum in the form provided by Grantee. Any such memorandum to be filed and recorded shall omit all material financial and economic terms of this Agreement and maintain any such terms confidential.

XIII. GOVERNING LAW. This Agreement shall be governed by the laws of the State of _____.

XIV. ENTIRE AGREEMENT. This Agreement constitutes the entire agreement between Grantor and Grantee and can be modified only by a written instrument signed by said parties hereto.

XV. BINDING EFFECT. It is intended that all the provisions of this Agreement shall run with the land and that all the provisions hereto shall inure to the benefit of and shall be binding on the parties hereto, their heirs, legal representatives, successors, and assigns.

IN WITNESS WHEREOF, the Grantor and Grantee have executed this Agreement as of the date first written above.

Grantor's Signature: _____ **Date:** _____

Grantee's Signature: _____ **Date:** _____

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